



DECISION MEMO

Forlorn Hope Special Use Permit

USDA Forest Service
Beaverhead-Deerlodge National Forest
Pintler Ranger District
Deer Lodge County, Montana
T. 5N., R. 8W., Sec. 8

Background

The Pintler Ranger District received a proposal from private landowners to obtain a special use permit to construct and maintain a road for ingress and egress to their inholding. The proposed route is within a seasonal motorized restricted area between October 15 and December 2 but the main route to which the access road would connect, National Forest System (NFS) Road 8634, is open yearlong.

Decision

I have decided to issue a private road special use permit authorizing the landowners to construct and maintain a road to access their private land. The route will be approximately 300 feet long and 14 feet in width and constructed to Forest Service specifications. Section 1323 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) grants non-federal landowners whose ownership lies within the boundaries of the NFS, or is surrounded by public lands administered by the BLM in Alaska, the statutory right of access over public lands when such federal lands are needed to provide for the reasonable use and enjoyment of nonfederal lands. Section 1323(a) of ANILCA applies to NFS lands throughout the United States. Based on this legislation, issuance of a special use permit to the private property owner meets the agency's requirement to provide reasonable access to a private inholding.

Design Features Required by this Decision

The following design features are hereby made part of my decision and are described by resource area below:

Aquatics: If western toads are found during implementation, they will be moved offsite.

Hydrology: Road will be constructed and maintained to full BMP standards and to Forest Service road specifications.

Soils: Construction of the access road should cease if rutting greater than 2 inches occurs outside the road prism. Once soil conditions are sufficiently dry, construction may resume.



Vegetation: Noxious weeds will be controlled following procedures in the Noxious Weed Control Program ROD (2002) for the Beaverhead-Deerlodge National Forest.

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The applicable category of actions is identified in agency procedures found in FSH 1909.15 Chapter 32.2(3) as, "Approval, modification, or continuation of minor special uses of NFS lands that require less than twenty contiguous acres of land. CFR 220.6(e)(3)." This category of action(s) is applicable because it's an approval of a minor use of less than twenty contiguous acres of NFS land.

Based on my review of the project record, I find that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. I took into account resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

- ♦ **Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.** Potential effects of this decision on proposed, threatened, and endangered species as well as sensitive species determined "no effect" for grizzly bear (*Ursus arctos*) and lynx (*Lynx canadensis*) and "no impact" for all wildlife sensitive species. There will be "no effect" to bull trout (*Salvelinus confluentus*) or their critical habitat and "no impact" to westslope cutthroat trout (*Oncorhynchus clarki lewisi*). Western toad (*Bufo boreas boreas*) "may impact individuals or habitat but will not likely contribute to a trend towards federal listing or loss of viability to the population or species". "No effect" to sensitive plants.
- ♦ **Flood plains, wetlands, or municipal watersheds.** The project does not fall within a municipal watershed and will have no negative effect to floodplains or wetlands.
- ♦ **Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas.** This project is not within a Congressionally designated Wilderness area, Wilderness study area, or national recreation area.
- ♦ **Inventoried roadless areas or potential wilderness areas.** This project is not within an inventoried roadless area.
- ♦ **Research natural areas.** This project is not within a research natural area.
- ♦ **American Indians and Alaska Native religious or cultural sites.** Based on surveys, there is low probability of American Indian and Alaska Native religious or cultural sites in the project area.
- ♦ **Archaeological sites, or historic properties or areas.** Based on surveys, there is low probability of American Indian and Alaska Native religious or cultural sites in the project area.



Public Involvement

This action was originally listed as a proposal on the Beaverhead-Deerlodge National Forest Schedule of Proposed Actions (SOPA) and updated periodically during the analysis. Scoping was initiated on December 3, 2020 and a scoping packet, which included a project description and map of the project area, was sent to local stakeholders. The same scoping packet was also made available digitally on the BDNF's current and recent project website.

The scoping letter requested input be submitted to the Forest Service by December 16, 2020 and included a contact phone number, fax number, and email address as a means of providing comments, concerns, or ideas. By April 5, 2021, no comments were received.

Findings Required by Other Laws and Regulations

This decision is consistent with the Beaverhead-Deerlodge National Forest Land Management Plan (2009). The project was designed in conformance with Forest Plan direction including all applicable standards, objectives, and guidelines. The proposed action is consistent with all other Federal, State, and local laws and requirements.

Administrative Review Opportunities

Decisions made under Categorical Exclusions are not subject to objection pursuant to 36 CFR 218. The special use permit holder, however, may appeal this decision pursuant to Department of Agriculture regulations found at 36 CFR 214.

Implementation Date

This decision is not subject to objection pursuant to 36 CFR 218 and may begin immediately. Work is expected to commence June 2021.

Contact

For additional information concerning this decision, contact: Cameron Rasor, District Ranger, Pintler Ranger District, Beaverhead-Deerlodge National Forest, 88 Business Loop Philipsburg, MT 59858, (406) 859-3211.

CAMERON L. RASOR
District Ranger

4/8/2021

Date

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